

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DJGPC FILE  
NO.: 1104129

-----X

DIANE MICELI,

Case No.  
08 CV 2794 (RJS)

Plaintiff,

-against-

DAVID J. GOLD, P.C., IN HIS  
CAPACITY AS ATTORNEY FOR LINCOLN  
FINANCIAL SERVICES AND ASHWOOD  
FINANCIAL, INC. and LINCOLN  
FINANCIAL SERVICES, INC. and  
ASHWOOD FINANCIAL INC.,

Defendants.

-----X

ANSWER AND  
COUNTERCLAIMS

Defendants, DAVID J. GOLD, P.C., IN HIS CAPACITY AS  
ATTORNEY FOR LINCOLN FINANCIAL SERVICES AND ASHWOOD  
FINANCIAL, INC. and LINCOLN FINANCIAL SERVICES, INC. and  
ASHWOOD FINANCIAL INC., by DAVID J. GOLD, P.C., their  
attorney, as and for their Answer and Counterclaims to  
plaintiff's Summons in a Civil Action and Complaint and  
Jury Demand, alleges as follows:

FIRST: With respect to paragraph marked "1" of  
plaintiff's Complaint and Jury Demand, defendants deny the  
allegations set forth therein.

SECOND: With respect to paragraph marked "2" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

THIRD: With respect to paragraph marked "3" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

FOURTH: With respect to paragraph marked "4" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

FIFTH: With respect to paragraph marked "5" of plaintiff's Complaint and Jury Demand, defendants admit the allegation set forth therein.

SIXTH: With respect to paragraph marked "6" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and will move the Court to strike all allegations which are wholly irrelevant to the pending litigation.

SEVENTH: With respect to paragraph marked "7" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

EIGHTH: With respect to paragraph marked "8" of plaintiff's Complaint and Jury Demand, defendants deny

knowledge or information sufficient to form a belief as to the allegations set forth therein.

NINTH: With respect to paragraph marked "9" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

TENTH: With respect to paragraph marked "10" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

ELEVENTH: With respect to paragraph marked "11" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWELFTH: With respect to paragraph marked "12" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

THIRTEENTH: With respect to paragraph marked "13" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully

refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

FOURTEENTH: With respect to paragraph marked "14" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

FIFTEENTH: With respect to paragraph marked "15" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

SIXTEENTH: With respect to paragraph marked "16" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

SEVENTEENTH: With respect to paragraph marked "17" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

EIGHTEENTH: With respect to paragraph marked "18" of plaintiff's Complaint and Jury Demand, defendants

deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

NINETEENTH: With respect to paragraph marked "19" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTIETH: With respect to paragraph marked "20" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-FIRST: With respect to paragraph marked "21" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-SECOND: With respect to paragraph marked "22" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-THIRD: With respect to paragraph marked "23" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-FOURTH: With respect to paragraph marked "24" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-FIFTH: With respect to paragraph marked "25" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-SIXTH: With respect to paragraph marked "26" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-SEVENTH: With respect to paragraph marked "27" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and

respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-EIGHTH: With respect to paragraph marked "28" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refer the Court to all relevant statutes regarding their meaning and the legal effects thereof.

TWENTY-NINTH: With respect to paragraph marked "29" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

THIRTIETH: With respect to paragraph marked "30" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

THIRTY-FIRST: With respect to paragraph marked "31" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

THIRTY-SECOND: With respect to paragraph marked "32" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

THIRTY-THIRD: With respect to paragraph marked "33" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

THIRTY-FOURTH: With respect to paragraph marked "34" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

THIRTY-FIFTH: With respect to paragraph marked "35" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein.

THIRTY-SIXTH: With respect to paragraph marked "36" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

THIRTY-SEVENTH: With respect to paragraph marked "37" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

THIRTY-EIGHTH: With respect to paragraph marked "38" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.



THIRTY-NINTH: With respect to paragraph marked "39" of plaintiff's Complaint and Jury Demand, defendants deny knowledge or information sufficient to form a belief as to the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTIETH: With respect to paragraph marked "40" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-FIRST: With respect to paragraph marked "41" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-SECOND: With respect to paragraph marked "42" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-THIRD: With respect to paragraph marked "43" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully

refers this Court to all prior proceedings had between the parties herein.

FORTY-FOURTH: With respect to paragraph marked "44" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-FIFTH: With respect to paragraph marked "45" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-SIXTH: With respect to paragraph marked "46" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-SEVENTH: With respect to paragraph marked "47" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-EIGHTH: With respect to paragraph marked "48" of plaintiff's Complaint and Jury Demand, defendants

deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FORTY-NINTH: With respect to paragraph marked "49" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTIETH: With respect to paragraph marked "50" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-FIRST: With respect to paragraph marked "51" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-SECOND: With respect to paragraph marked "52" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-THIRD: With respect to paragraph marked "53" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-FOURTH: With respect to paragraph marked "54" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-FIFTH: With respect to paragraph marked "55" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-SIXTH: With respect to paragraph marked "56" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-SEVENTH: With respect to paragraph marked "57" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully

refers this Court to all prior proceedings had between the parties herein.

FIFTY-EIGHTH: With respect to paragraph marked "58" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

FIFTY-NINTH: With respect to paragraph marked "59" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTIETH: With respect to paragraph marked "60" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-FIRST: With respect to paragraph marked "61" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-SECOND: With respect to paragraph marked "62" of plaintiff's Complaint and Jury Demand,

defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-THIRD: With respect to paragraph marked "63" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-FOURTH: With respect to paragraph marked "64" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-FIFTH: With respect to paragraph marked "65" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-SIXTH: With respect to paragraph marked "66" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-SEVENTH: With respect to paragraph marked "67" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-EIGHTH: With respect to paragraph marked "68" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SIXTY-NINTH: With respect to paragraph marked "69" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTIETH: With respect to paragraph marked "70" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-FIRST: With respect to paragraph marked "71" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully

refers this Court to all prior proceedings had between the parties herein.

SEVENTY-SECOND: With respect to paragraph marked "72" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-THIRD: With respect to paragraph marked "73" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-FOURTH: With respect to paragraph marked "74" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-FIFTH: With respect to paragraph marked "75" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-SIXTH: With respect to paragraph marked "76" of plaintiff's Complaint and Jury Demand,



defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-SEVENTH: With respect to paragraph marked "77" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-EIGHTH: With respect to paragraph marked "78" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

SEVENTY-NINTH: With respect to paragraph marked "79" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

EIGHTIETH: With respect to paragraph marked "80" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

EIGHTY-FIRST: With respect to paragraph marked "81" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

EIGHTY-SECOND: With respect to paragraph marked "82" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

EIGHTY-THIRD: With respect to paragraph marked "83" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

EIGHTY-FOURTH: With respect to paragraph marked "84" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

EIGHTY-FIFTH: With respect to paragraph marked "85" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully

refers this Court to all prior proceedings had between the parties herein.

EIGHTY-SIXTH: With respect to paragraph marked "86" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein and respectfully refers this Court to all prior proceedings had between the parties herein.

ANSWERING THE FIRST CLAIM FOR RELIEF

EIGHTY-SEVENTH: With respect to paragraph marked "87" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

EIGHTY-EIGHTH: With respect to paragraph marked "88" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

EIGHTY-NINTH: With respect to paragraph marked "89" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETIETH: With respect to paragraph marked "90" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETY-FIRST: With respect to paragraph marked "91" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

ANSWERING THE SECOND CLAIM FOR RELIEF

NINETY-SECOND: With respect to paragraph marked "92" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETY-THIRD: With respect to paragraph marked "93" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETY-FOURTH: With respect to paragraph marked "94" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETY-FIFTH: With respect to paragraph marked "95" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETY-SIXTH: With respect to paragraph marked "96" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

ANSWERING THE THIRD CLAIM FOR RELIEF

NINETY-SEVENTH: With respect to paragraph marked "97" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETY-EIGHTH: With respect to paragraph marked "98" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

NINETY-NINTH: With respect to paragraph marked "99" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

ONE-HUNDREDTH: With respect to paragraph marked "100" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

ONE-HUNDRED-FIRST: With respect to paragraph marked "101" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

ANSWERING THE FOURTH CLAIM FOR RELIEF

ONE-HUNDRED-SECOND: With respect to paragraph marked "102" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

ONE-HUNDRED-THIRD: With respect to paragraph marked "103" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

ONE-HUNDRED-FOURTH: With respect to paragraph marked "104" of plaintiff's Complaint and Jury Demand, defendants deny the allegations set forth therein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

ONE-HUNDRED-FIFTH: Plaintiff's Complaint and Jury Demand fails to sufficiently state a cause of action against defendants upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

ONE-HUNDRED-SIXTH: Statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

ONE-HUNDRED-SEVENTH: Lack of subject matter jurisdiction.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-EIGHTH: Improper forum/venue.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-NINTH: Failure to name an  
indispensible party.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-TENTH: Prior action pending.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-ELEVENTH: Improper party  
defendants.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-TWELFTH: Any damages allegedly  
sustained by plaintiff were as a result of either plaintiff  
or plaintiff's counsel contributory negligence in not

acting promptly after notice from plaintiff's financial institution.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-THIRTEENTH: Laches.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-FOURTEENTH: Estoppel.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-FIFTEENTH: Waiver.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE:

ONE-HUNDRED-SIXTEENTH: Unclean hands.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE  
AND BY WAY OF A FIRST COUNTERCLAIM:

ONE-HUNDRED-SEVENTEENTH: That plaintiff has instituted this lawsuit against defendants as a means of harassment and in retaliation for defendants' attempts to collect the underlying judgment to which plaintiff has readily admitted owing.



ONE-HUNDRED-EIGHTEENTH: That as a result of the foregoing, defendants have been damaged in a sum to be determined by the trier of fact, but not less than \$ 100,000.00.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE  
AND BY WAY OF A SECOND COUNTERCLAIM:

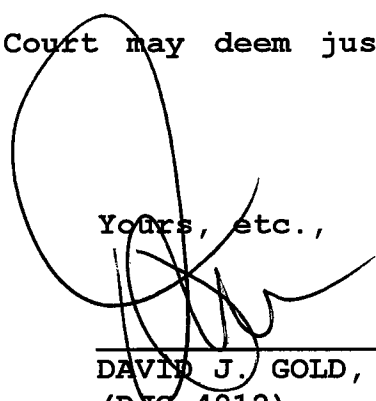
ONE-HUNDRED-NINETEENTH: That as a result of plaintiff's litigation herein, defendant, David J. Gold, P.C., may have lost a client and lost substantial income.

ONE-HUNDRED-TWENTIETH: That as a result of the foregoing, defendants have been damaged in a sum to be determined by the trier of fact, but not less than \$ 500,000.00.

WHEREFORE, defendants, DAVID J. GOLD, P.C., IN HIS CAPACITY AS ATTORNEY FOR LINCOLN FINANCIAL SERVICES AND ASHWOOD FINANCIAL, INC. and LINCOLN FINANCIAL SERVICES, INC. and ASHWOOD FINANCIAL INC., demand judgment dismissing plaintiff's Summons in a Civil Action and Complaint and Jury Demand, and on their first counterclaim, in a sum to be determined by the trier of fact, but not less than \$ 100,000.00, and on their second counterclaim, in a sum to be determined by the trier of fact, but not less than

\$ 500,000.00, together with the costs, disbursements and attorney's fees in defending this action, and for such other and further relief as the Court may deem just and proper.

Yours, etc.,



---

DAVID J. GOLD, P.C.  
(DJG 4912)

Attorney for Defendants  
Office and P.O. Address  
116 John Street, Suite 3110  
New York, New York 10038-3411  
Tel.: (212) 962-2910  
Fax: (212) 962-2919  
EMail: djgpcesq1@aol.com

TO: JOHN C. GRAY, ESQ.  
South Brooklyn Legal  
Services, Inc.  
Attorneys for Plaintiff  
Office and P.O. Address  
105 Court Street  
Brooklyn, New York 11201  
Tel.: (718) 237-5500  
Fax: (718) 855-0733

AFFIDAVIT OF SERVICE

STATE OF NEW YORK )

COUNTY OF NEW YORK ) ss.:

LOUISE SAUER, being duly sworn, deposes and says:

I reside in New York, New York.

I am over the age of 18 years and am not a party to the within action.

On Tuesday, April 29, 2008, I served the annexed:

ANSWER AND COUNTERCLAIMS

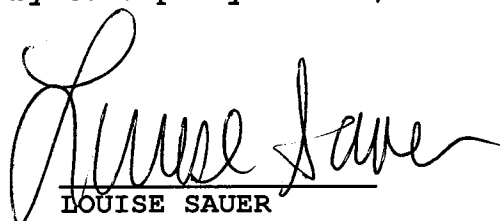
upon JOHN C. GRAY, ESQ. - SOUTH BROOKLYN LEGAL SERVICES, INC., the persons named therein as the attorneys for the named plaintiff, in the following manner:

By mailing the same in a sealed envelope with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, via regular mail, addressed to the last known address of the addressee(s) as indicated below (the address designated by said party as his/her address):

105 Court Street  
New York, New York 11201

Sworn to before me this  
Tuesday, April 29, 2008.

\_\_\_\_\_  
NOTARY PUBLIC  
DAVID J. GOLD  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 31-4872791  
QUALIFIED IN NEW YORK COUNTY  
COMMISSION EXPIRES 9/15/2010

  
LOUISE SAUER

DAVID J. GOLD, P.C.

CASE NO.: 08 CV 2794 (RJS)  
CALENDAR NO.:  
DJGPC FILE NO.: 1104129

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
=====

DIANE MICELI,

PLAINTIFF,

-AGAINST-

DAVID J. GOLD, P.C., IN HIS CAPACITY AS ATTORNEY FOR LINCOLN  
FINANCIAL SERVICES AND ASHWOOD FINANCIAL, INC. AND LINCOLN  
FINANCIAL SERVICES, INC. AND ASHWOOD FINANCIAL INC.,

DEFENDANTS.  
=====

*ANSWER AND COUNTERCLAIMS*  
=====

Pursuant TO 22 NYCRR 130-1.1, the undersigned, an attorney admitted to  
practice in the courts of New York State certifies that, upon information  
and belief and reasonable inquiry, the contentions contained in the annexed  
document are not frivolous.

\_\_\_\_\_  
DAVID J. GOLD, P.C. (DG-4912)  
ATTORNEY FOR DEFENDANTS  
OFFICE & P.O. ADDRESS, TELEPHONE  
116 JOHN STREET, SUITE 3110  
NEW YORK, NEW YORK 10038-3411  
TEL.: (212) 962-2910  
FAX: (212) 962-2919  
E-MAIL: DJGPCESQ1@AOL.COM